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Attorney for Plaintiff Gregory Porterfield

**IN THE UNITED STATES DISTRICT COURT  
 FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**GREGORY PORTERFIELD**  
 54 East Collom Street  
 Philadelphia, PA 19144  
 Plaintiff

vs.

**POLICE OFFICER CYRUS MANN**  
 Badge Number 1781  
 City of Philadelphia Law Department  
 1515 Arch Street, 15<sup>th</sup> Floor  
 Philadelphia, PA 19103

and

**POLICE OFFICER JOSEPH REIBER**  
 Badge Number 2234  
 City of Philadelphia Law Department  
 1515 Arch Street, 15<sup>th</sup> Floor  
 Philadelphia, PA 19103

and

**CITY OF PHILADELPHIA**  
 Law Department  
 1515 Arch Street, 15<sup>th</sup> Floor  
 Philadelphia, PA 19103

Defendants

CIVIL ACTION

NO: **16 2295**

JURY TRIAL DEMANDED

**FILED**  
 MAY 11 2016  
 By MICHAEL E. KUNZ, Clerk  
 Dep Clerk

**COMPLAINT**

1. This is a complaint for money damages brought pursuant to 42 U.S.C. §1983 and 1988, as well as the Fourth and Fourteenth Amendments to the United States Constitution, and under the Commonwealth of Pennsylvania Constitution. Jurisdiction is based upon 28 U.S.C. §1331 and 1343 and, pendent jurisdiction of this court to consider claims under state law.

*S*

## **PARTIES**

2. Plaintiff, Gregory Porterfield is, at all times relevant to this Complaint, an adult resident of the City of Philadelphia, Pennsylvania and is presently fifty-six (56) years old.

3. Defendant, Police Officer Cyrus Mann, Badge No. 1781, is and was at all times relevant to this Complaint, a police officer with the City of Philadelphia Police Department and acting under the color of state law. He is sued both individually and in his official capacity.

4. Defendant, Police Officer Joseph Reiber, Badge No. 2234, is and was at all times relevant to this Complaint, a police officer with the City of Philadelphia Police Department and acting under the color of state law. He is sued both individually and in his official capacity.

5. Defendant The City of Philadelphia is a municipal corporation and the employer of the individually named defendants.

## **FACTS**

6. On June 26, 2014, the Plaintiff, Gregory Porterfield, left his place of worship, located at 414 East Penn Street in the City and County of Philadelphia and agreed to give his friend a ride.

7. Without reasonable suspicion or probable cause to stop the vehicle, Defendant Officer Mann and Defendant Officer Reiber conducted a stop of the vehicle driven by the Plaintiff in the area of Mascher and Godfrey Streets in Philadelphia, Pa. Upon information and belief, the driver of the police vehicle was Defendant Mann. Shortly after the unlawful stop of the vehicle, Defendant Mann approached the driver's side of the vehicle and after a brief conversation with the Plaintiff, Defendant Mann, without reasonable suspicion, or

probable cause, ordered Plaintiff to get out of his vehicle. As Defendant Mann ordered Plaintiff to get out of his vehicle, the Defendant opened the driver's side door. At the time Plaintiff was carrying a gun in his right pocket. Following the death of his older son, the alleged killer had threatened the Plaintiff and his family, and therefore, Plaintiff was carrying the gun for his own protection.

8. Without reasonable suspicion to stop or frisk, or probable cause to search or seize the Plaintiff, The Plaintiff was taken from his vehicle by Defendant Officer Mann, and moved to the rear of his vehicle by Defendant Mann. Plaintiff was then pushed up against his vehicle with Defendant Mann forcing Plaintiff to place his hands on the vehicle and spread his legs in order for Defendant Mann to conduct a frisk for weapons.

9. Upon information and belief, at the moment the Plaintiff was taken from the vehicle by Defendant Mann, Defendant Reiber had moved from the passenger side of Plaintiff's vehicle to the rear of the vehicle in order to assist Defendant Mann in the unlawful frisk and search of Plaintiff.

10. As Defendant Mann pushed the Plaintiff onto the vehicle he asked the Plaintiff if he was armed. The Plaintiff responded by telling Defendant Mann that he had a gun on him while simultaneously the Plaintiff patted his right front pocket to indicate to the Defendant Mann where the weapon was located. Upon information and belief, Defendant Reiber was standing near Defendant Mann at the time the Plaintiff was forced up against the rear of his vehicle. As the Plaintiff patted his front pocket to show Defendant Mann where the gun was, Defendant Mann immediately grabbed the Plaintiff from behind pushed the Plaintiff in an effort to force him to the ground. As the Plaintiff stumbled forward the Plaintiff raised his

empty hands in the air in order to demonstrate to Defendant Mann that he did not have the weapon in his hands, the Plaintiff heard several gunshots and immediately felt pain in his back. At no time did the Plaintiff point or threaten either Defendant Mann or Defendant Reiber with the weapon that was in his pocket. Both Defendant Mann, and Defendant Reiber, without any legal justification, immediately began repeatedly firing their weapons at the Plaintiff while he held his arms up demonstrating that his hands were empty. The Plaintiff was struck numerous times by gunshots fired from both Defendant Mann and Defendant Reiber.

11. Eventually, Plaintiff lost consciousness at the scene. The last thing Plaintiff remembers was the paramedics cutting off his clothes. The Plaintiff was transported to Einstein Hospital emergency room for treatment for multiple gunshot wounds. Eventually, it was revealed that the Plaintiff was shot eight times by both Defendants Mann and Reiber. Specifically, the Plaintiff was shot twice in the back, once left side of the buttocks, twice on left side of the chest near his underarm, once in the rear of the left shoulder, left wrist and left index finger and the back of the right leg which went through and exited the front of his right leg.

12. Plaintiff was treated in the intensive care unit of Einstein Hospital for several days, then transferred to a recovery unit. The Plaintiff spent a total of two weeks in the hospital while being treated for the gunshot wounds.

13. In an effort to cover up shooting the Plaintiff without just cause, both Defendant Mann and Defendant Reiber fabricated statements regarding the use of excessive force against the Plaintiff. Specifically, both Defendant Mann, and Defendant Reiber falsely

stated that the Plaintiff drew his weapon, pointed it at them and fired his weapon in their direction. Based upon the false statements made by Defendant Mann and Defendant Reiber, the Plaintiff was falsely charged with attempted murder and aggravated assault on Police Officer Mann. The Plaintiff's bail was set at \$1,000,000.

14. Eventually, the Plaintiff was transferred from Einstein Hospital to the Prison Health Service Wing at the Detention Center, Philadelphia Prison System. The Plaintiff spent five (5) months recovering in the Prison Health Service Wing of the Detention Center.

15. At no time during the unlawful detention of Plaintiff did the Plaintiff ever attempt to point the weapon at the defendant police officers, or act in any way which would justify the use of deadly force.

16. The Plaintiff has suffered permanent physical injury as a result of the shooting by Defendants Mann and Reiber. The following injuries are some, but not all of the injuries the Plaintiff suffered as a result of the excessive force employed by Defendant Mann and Defendant Reiber. Presently, the Plaintiff has permanent nerve damage in his right leg. As a result of the gunshot wounds the Plaintiff has a severe permanent limp and at times requires the use of a cane or walker. As a result of the gunshot wounds, the Plaintiff has decreased mobility in left arm, and with the loss of the knuckle on his left index finger, which presents the Plaintiff from full use of his left hand. Additionally, the Plaintiff suffers from nerve damage to the same wrist and suffers with constant pain in his back and numbness in his legs.

17. As a direct and proximate cause the actions of Defendant Mann and Defendant Reiber, specifically, using excessive force by shooting the Plaintiff multiple times, the Plaintiff suffers with anxiety, insomnia and psychological damage.

18. Upon information and belief, on dates prior to the stop of Plaintiff, Defendant Mann had been involved in two officer involved shootings while on duty as a Philadelphia Police Officer.

19. On June 17, 2011 Defendant Officer Cyrus Mann fired his weapon five times at Jeremy May, wounding an unarmed driver of a vehicle in the area of the 5100 Duffield Street in the City and County of Philadelphia, PA. Defendant Officer Mann fired his weapon, asserting that at the time he fired his weapon at Mr. May, he believed that Mr. May was armed, and because he " was in fear for his life." Although Mr. May was unarmed, Defendant's decision to fire his weapon at Mr. May, an unarmed civilian, caused serious bodily injury, amounted to excessive use of force.

20. On August 9, 2012, Defendant Officer Cyrus Mann while on duty, shot and killed an unarmed man, Hassan Eugene Pratt in the vicinity of 56th and Walton Streets in the City and County of Philadelphia. Following a pretextual vehicle stop, Defendant Officer Mann, without reasonable suspicion to conduct a stop and frisk, or probable cause to conduct a search of the vehicle, ordered the occupants of the vehicle, including the decedent, Hassan Eugene Pratt, in order to conduct an unlawful frisk of each occupant, as well as an illegal search of the vehicle. After unlawfully frisking Mr. Pratt, Mr. Pratt fled the scene. Although Pratt was not armed, Defendant Officer Mann chased the decedent into an alley which was a dead end. Based on all objective facts available to Defendant Mann, Mr. Pratt t was unarmed and therefore posed no threat to Defendant Mann, Defendant Mann fired at Mr. Pratt striking him in the torso three times and killing him. At no time did the decedent, Mr. Pratt commit



any crime that justified the unlawful frisk and subsequent use of excessive force by Defendant Officer Mann.

21. Despite the fact that Defendant Officer Mann committed these two prior shootings, each involving excessive use of force, both following unconstitutional seizures, the Philadelphia Police Department did not terminate Defendant Officer Mann, but rather placed Officer Mann back on duty as a patrol officer knowing that Officer Mann had violated the constitutional rights of city residents on multiple occasions, including these two prior shootings of civilians. Furthermore, upon information and belief, Defendant Officer Mann was placed back on patrol by the Philadelphia Police Department without adequate re-training, discipline or supervision, and after the Police Department Command was clearly on notice that Defendant Officer Mann had violated the constitutional rights of residents of the City of Philadelphia, including shooting two civilians without lawful reason or justification.

22. For years the Philadelphia Police Department has maintained a systematic practice of failing to properly train, supervise, discipline and re-train its police officers in the proper use of force and proper use of deadly force in particular.

23. According to a 2015 Justice Department Report by the Collaborative Reform Initiative entitled, *As Assessment of Deadly Force in the Philadelphia Police Department*, between 2007-2014 there were 394 officer involved shootings committed by Philadelphia police officers on civilians. The report details numerous findings that revealed that the Philadelphia Police Department's implementation of the use of deadly force training, supervision, and re-training was inadequate. Additionally, the Justice Department Report concluded that the Philadelphia Police Department's Use of Deadly Force policy as written was

vague, confusing and uses terms which are not based upon legal precedents.

24. Furthermore, the study found that the weapons training for new recruits was inconsistent, and that Academy instruction materials on the use of force policy and use for force continuum are inconsistent. Furthermore, the academy instruction and scenario based training sessions are inconsistent and those related to the use of force end with the officer having to use force. The Justice Department Report found that the Philadelphia Police Department lacks a field training program and therefore, police officers do not receive regular in-service training on threat perception, decision-making and de-escalation.

25. The Philadelphia Police Department's policy and practice regarding the investigation of officer involved shootings is woefully inadequate on every level. The initial "public safety statement" taken by the transporting supervisor lacks structure and consistency. The report further stated that there is a general lack of consistency in the quality of crime scene control and integrity. Specifically, regarding investigations into police involved shootings is unnecessarily delayed as the Internal Affairs Division shooting team waits for the District Attorney's Office to decline charges before it interviews the officers and closes its investigation. The interviews are not recorded by audio or video recording devices. The Philadelphia Police Department does not have consistent training for shooting team members, and the shooting team does not follow a formal process for consulting experts. The Justice Department findings regarding the inconsistency and inadequacy of the investigation methods and procedures conducted by the Philadelphia Police Department into police involved shootings is a direct cause of the improper and unconstitutional shootings committed by Philadelphia police officers generally, and specifically, was the direct cause of the unconstitutional use of



excessive force committed by the Defendants Mann and Reiber against the Plaintiff in this case.

26. The Justice Department Report concluded that the Philadelphia Police Department's disciplinary code regarding firearm discharges is inconsistent and ranges widely in terms of the discipline that may be imposed.

27. The Philadelphia Police Department does not have an established process for organizational learning related to officer involved shootings, and more significantly the use of force.

28. All of the findings issued by the Justice Department in the above-mentioned report, the Philadelphia Police Department's inadequate use of force policy and use of deadly force policy, the inadequate education regarding these policies, inadequate initial training, inadequate re-training after the discharge of a firearm by a police officer, failure to properly investigate police involved shootings, inadequate supervision, inconsistent and inadequate discipline, are all factors that were a direct and proximate cause of the excessive use of force deployed by the Defendants Mann and Reiber that resulted in the violations of Plaintiff's constitutional rights in this case.

**COUNT I – EXCESSIVE FORCE BY DEFENDANT OFFICER MANN**  
**PURSUANT TO 42 U.S.C. §1983**

29. Paragraphs 1 through 28 of this Complaint are incorporated herein by reference.

30. On or about June 26, 2014, Defendant Police Officer Cyrus Mann, without legal justification, acted alone, without just cause or lawful reason, jointly and/or in concert with another, did with deliberate indifference use excessive force upon the Plaintiff, by unlawfully

discharging his weapon, shooting at the Plaintiff multiple times while the Plaintiff posed no threat to either Defendant Mann or Defendant Reiber.

31. As a direct and proximate cause of the Defendant's unlawful use of excessive force, the Plaintiff suffered physical pain and permanent injuries as set forth herein, some if not all may be permanent. Additionally, the Plaintiff suffered, and continues to suffer, psychological injury as a result of the life-threatening physical injuries he received as a result of the Defendant Officer Mann's actions.

32. The Defendant Police Officers Mann and Reiber, acting under the color of state law, violated the Plaintiff's right to be free from the use of excessive force as guaranteed under the Fourth Amendment and Fourteenth Amendments of the United States Constitution, as well as 42 U.S.C. §1983 .

**COUNT II – EXCESSIVE FORCE BY DEFENDANT OFFICER REIBER**  
**PURSUANT TO 42 U.S.C. §1983**

33. Paragraphs 1 through 32 of this Complaint are incorporated herein by reference.

34. On or about June 26, 2014, Defendant Police Officer Joseph Reiber, without legal justification, acted alone, without just cause or lawful reason, jointly and/or in concert with another, did with deliberate indifference use excessive force upon the Plaintiff, by unlawfully discharging his weapon, shooting at the Plaintiff multiple times while the Plaintiff while the Plaintiff posed no threat to either Defendant Mann or Defendant Reiber.

35. As a direct and proximate cause of the Defendant's unlawful use of excessive force, the Plaintiff suffered physical pain and permanent injuries as set forth herein, some if not all may be permanent. Additionally, the Plaintiff suffered, and continues to suffer,

psychological injury as a result of the life-threatening physical injuries he received as a result of the Defendant Police Officer's actions.

36. The Defendant Police Officers Mann and Reiber, acting under the color of state law, violated the Plaintiff's right to be free from the use of excessive force as guaranteed under the Fourth Amendment and Fourteenth Amendments of the United States Constitution, as well as 42 U.S.C. §1983.

**COUNT III – CONSPIRACY TO COMMIT EXCESSIVE FORCE**  
**PURSUANT TO 42 U.S.C. §1983**  
**DEFENDANT OFFICER MANN AND DEFENDANT OFFICER REIBER**

37. Paragraphs 1 through 36 of this Complaint are incorporated herein by reference.

38. On or about June 26, 2014 Defendants, Police Officer Cyrus Mann and Police Officer Joseph Reiber, acting under the color of state law, acted jointly and/or in concert and conspiracy, with one another, did with deliberate indifference agreed to use excessive force upon the Plaintiff, by discharging their weapons shooting at Plaintiff, striking him multiple times including his back, buttocks, finger and arm. At no time during or after the shooting, did Plaintiff present a threat to either Defendant Mann or Defendant Reiber.

39. As a result of the conduct of Defendant Police Officer Cyrus Mann and Police Officer Joseph Reiber, acting under the color of state law, with deliberate indifference discharged their weapons, shooting the Plaintiff multiple times on various parts of his body, did cause grievous bodily injury, which may be permanent, as well as psychological injury which may be permanent.

40. The Defendants, Police Officer Cyrus Mann, and Police Officer Joseph Reiber, acting under the color of state law and with deliberate indifference conspired with one another

to use excessive force which violated the Plaintiff's rights under the Fourth and Fourteenth Amendments of the United States Constitution, as well as 42 U.S.C. §1983.

**COUNT IV: MALICIOUS PROSECUTION**  
**PURSUANT TO 42 U.S.C. §1983**

41. Paragraphs 1 through 40 of this Complaint are incorporated herein by reference.

42. Defendant Police Officer Cyrus Mann and Joseph Reiber, did with deliberate indifference, and acting under the color of state law, falsely arrested and based upon their false statements, caused the Plaintiff to be maliciously charged with two counts of attempted murder, aggravated assault and related charges on each of the Defendant Officers, Cyrus Mann and Joseph Reiber. The Defendant Officers Mann and Reiber fabricated evidence by submitting false statements in an effort to cover up their own misconduct. Knowing that there was no reasonable suspicion or probable cause for the vehicle stop, Defendants Mann and Reiber fabricated evidence to justify the stop and detention of the Plaintiff.

43. Furthermore, Defendant Mann and Defendant Reiber falsely accused that Plaintiff of pulling his weapon and firing in the direction of both Defendant Officer Mann and Defendant Officer Reiber, causing the Plaintiff to be falsely charged. The action of Defendant Mann and Defendant Reiber in fabricating the evidence against the Plaintiff, amounts to malicious prosecution.

44. On June 19, 2015, all charges were dismissed against the Plaintiff. As a direct and proximate result of the actions of Defendant Officers Cyrus Mann and Joseph Reiber, the Plaintiff was maliciously prosecuted and as such, the Plaintiff's rights were violated under the Fourth and Fourteenth Amendments to the United States Constitution as well as 42 U.S.C.

Section 1983. The Plaintiff suffered the loss of his physical liberty as suffered the emotional and psychological harm as a result of this violation.

**COUNT V: CONSPIRACY TO COMMIT MALICIOUS PROSECUTION**  
**PURSUANT TO 42 U.S.C. §1983**

45. Paragraphs 1 through 44 of this Complaint are incorporated herein by reference.

46. The Defendant Police Officer officers, Cyrus Mann and Joseph Reiber, while acting under the color of state law and with deliberate indifference, unlawfully conspired to cause the Plaintiff to be falsely charged with two counts of attempted murder, aggravated assault and other charges. The Defendant's Mann and Joseph Reiber entered into an agreement to cause the Plaintiff to be arrested on these charges knowing that there was no probable cause or legal justification for these charges.

47. The actions of the Defendants Mann and Reiber in forming an agreement to fabricate charges against the Plaintiff violated the Plaintiffs rights under r the Fourth and Fourteenth Amendments to the United States Constitution as well as 42 U.S.C. Section 1983.

**COUNT VI - CITY OF PHILADELPHIA**  
**PURSUANT TO 42 U.S.C. §1983**

48. Paragraphs 1 through 47 are incorporated herein by reference as though fully set forth.

49. Prior date of this incident, the City of Philadelphia developed and maintained policies and/or customs exhibiting deliberate indifference to the constitutional rights of individuals within the City of Philadelphia regarding the policy with respect to the use of deadly force, which caused a violation of Plaintiff's rights in this case.

50. It was the policy and/or custom of the City of Philadelphia Police Department to



utilize an improper policy regarding the use of deadly force. Furthermore, it was the policy and/or custom of the City of Philadelphia to provide inadequate training to initial recruits, as well as inadequate retraining of its officers on the proper use of deadly force. It was the policy and/or custom of the City of Philadelphia Police Department to provide improper and incomplete investigations regarding police involved shootings that led to inconsistent and inaccurate findings on whether excessive force had been used by officers during police involved shootings. It was the policy and/or practice of the Philadelphia Police Department to provide inadequate supervision of the police officers on the force on the proper use of deadly force. It was the policy and/or custom of the City of Philadelphia Police Department to provide inadequate discipline to those officers that engage in improper use of deadly force. Each one of these policies and/or customs followed by the City of Philadelphia Police Department amounts to deliberate indifference to the constitutional rights of the Plaintiff and caused the use of excessive force by Defendants Mann and Reiber against the Plaintiff in this case.

51. The City of Philadelphia's Police Department maintained policies that exhibits deliberate indifference to the constitutional rights of individuals within the City of Philadelphia. Specifically, it was the policy and/or custom of the City of Philadelphia to inadequately supervise, train, retrain, and discipline its police officers, including the Defendant Police Officers Mann and Reiber, in the use of deadly force, thereby failing to discourage further constitutional violations on the part of its police officers, including the named Defendant Officers Mann and Reiber. The City of Philadelphia did not require adequate in-service training, or retraining of its officers, who were known to have engaged in use of excessive

force, deadly force, and false arrests. Upon information and belief, Defendant Officer Mann had been responsible for at least two police involved shootings, as well as numerous unlawful and constitutional stops of vehicles prior to the shooting of the Plaintiff on June 26, 2014. Upon information and belief, following each of these two prior police involved shooting, Defendant Officer Mann was permitted to return to active duty without any discipline or retraining. The Philadelphia Police Department and police supervisory personnel, acted with deliberate indifference to the Plaintiff's rights by placing Defendant Officer Mann back on the street in a patrol capacity knowing that he had been involved in two prior police involved shootings that amounted to excessive use of deadly force. By failing to terminate, re-train, or discipline Defendant Officer Mann following the two prior officer involved shootings, the actions of the Philadelphia Police Department and supervisory personnel directly caused the constitutional violations committed by Defendant Mann upon the Plaintiff.

52. Additionally, the City of Philadelphia Police Department was specifically made aware of the Defendant Mann's prior history of the improper use of deadly force based upon the two prior shootings detailed in paragraphs 16-19 of this Complaint.

53. The failure of the Philadelphia Police Department Command and supervisory personnel to terminate Defendant Mann, re-train, reassign, or discipline Defendant Mann following his involvement in two prior officer involved shootings which amounted to use of excessive force, constitutes deliberate indifference, and was the direct cause of the constitutional violations committed by Defendant Mann and Reiber against the Plaintiff.

54. As a result of the above-described policies and customs, police officers of the City of Philadelphia, including the Defendant Police officer Mann and Defendant Police

Officer Reiber, believed that their actions would not be properly monitored by supervisory officers, and that the misconduct, including the use of excessive force, deadly force, and unlawful stops, and by providing a fabricated story to justify the shooting, would not be investigated or sanctioned, but rather would be tolerated. By their failure to act in view of repeated constitutional violations by police officers improperly employing deadly force, the policymaking officials of the Philadelphia Police Department acted with deliberate indifference by creating an environment that has encouraged the improper use of deadly force which was the direct cause of the use of excessive force against the Plaintiff in this case.

55. The above-described policies and customs demonstrate a deliberate indifference on the part of the policymakers of the City of Philadelphia, to the constitutional rights of persons within the City generally, specifically the Plaintiff's rights under the Fourth and Fourteenth Amendments to the United States Constitution, as well as 42 U.S.C. Section 1983, and were the cause of the violations of Plaintiff's rights alleged therein.

#### **COUNT VII: COMMON LAW ASSAULT AND BATTERY**

56. Paragraphs 1 through 55 of this Complaint are incorporated herein by reference.

57. As a result of the actions and conduct of Defendant Police Officer Cyrus Mann and Joseph Reiber, without just cause or lawful reason, these defendants committed assault and battery on the person of the Plaintiff by shooting the Plaintiff multiple times, resulting in serious bodily injury to the Plaintiff which is permanent. Additionally, Plaintiff suffered and continues to suffer emotional distress, humiliation and embarrassment as a result of the Defendant Police Officer officer's actions.

58. As the direct and proximate cause of Defendant Police Officer's unlawful

actions, the Plaintiff suffered physical harm, emotional pain and suffering.

59. As the direct and proximate cause of Defendant Police Officer's unlawful actions, the Plaintiff suffered physical harm, emotional pain and suffering.

**COUNT VIII: COMMON LAW MALICIOUS PROSECUTION**

60. Paragraphs 1 through 59 of this Complaint are incorporated herein by reference.

61. Defendant Police Officer Cyrus Mann and Joseph Reiber, falsely arrested, and fabricated statements which caused the Plaintiff to be maliciously charged with two counts of attempted murder, aggravated assault and related charges on each of the Defendant Officers, Cyrus Mann and Joseph Reiber. The Defendant Officers Mann and Reiber fabricated evidence by submitting false statements in an effort to cover up their own misconduct. Knowing that there was no reasonable suspicion or probable cause for the vehicle stop, Defendants Mann and Reiber fabricated evidence to justify the stop and detention of the Plaintiff.

62. Furthermore, Defendant Mann and Defendant Reiber falsely accused that Plaintiff of pulling his weapon and firing in the direction of both Defendant Officer Mann and Defendant Officer Reiber, caused the Plaintiff to be criminally charged. The action of Defendant Mann and Defendant Reiber in fabricating the evidence against the Plaintiff caused the Plaintiff to be criminally charged with attempted murder, aggravated assault and related charges.

63. On June 19, 2015, all charges were dismissed against the Plaintiff. As a direct and proximate result of the actions of Defendant Officers Cyrus Mann and Joseph Reiber, the Plaintiff was maliciously prosecuted. The Plaintiff suffered the loss of his physical liberty as suffered the emotional and psychological harm as a result of this violation.

**COUNT IX: CONSPIRACY TO COMMIT MALICIOUS PROSECUTION**  
**PURSUANT TO 42 U.S.C. §1983**

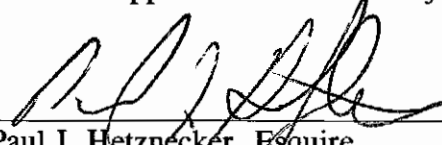
64. Paragraphs 1 through 63 of this Complaint are incorporated herein by reference.

65. The Defendant Police Officer officers, Cyrus Mann and Joseph Reiber unlawfully conspired to cause the Plaintiff to be falsely charged with two counts of attempted murder, aggravated assault and other charges. The Defendant's Mann and Joseph Reiber entered into an agreement to cause the Plaintiff to be arrested on these charges knowing that there was no probable cause or legal justification for these charges.

64. The actions of the Defendants Mann and Reiber in forming an agreement to fabricated charges against the Plaintiff causing the Plaintiff to be maliciously prosecuted for charges that the Defendants knew to be false.

WHEREFORE, the Plaintiff requests the following relief in an amount in excess of Fifty Thousand Dollars (\$50,000.00):

- (a) Compensatory damages to the Plaintiff against the Defendant Police Officers jointly and severally;
- (b) Punitive damages to the Plaintiff against the Defendant Police Officers jointly and severally;
- (c) Reasonable attorney's fees and costs to the Plaintiff pursuant to Section 42 U.S.C. §1988;
- (d) Such other and further relief as appears reasonable and just.

  
\_\_\_\_\_  
Paul J. Hetznecker, Esquire  
Attorney for Plaintiff Gregory Porterfield



The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

GREGORY PORTERFIELD  
54 East Collom Street  
Philadelphia, PA 19144

(b) County of Residence of First Listed Plaintiff Delaware  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Paul J. Hetznecker, Esquire  
1420 Walnut Street, Suite 911  
Philadelphia, PA 19102  
215-893-9640

**DEFENDANTS**

POLICE OFFICER CYRUS MANN  
Badge Number 1781; POLICE OFFICER  
JOSEPH REIBER, Badge Number 2234  
and City of Philadelphia

County of Residence of First Listed Defendant Philadelphia

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 PTF ☐ 1 DEF ☐ 1 Incorporated or Principal Place of Business In This State ☐ 4 PTF ☒ 4 DEF
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. §1983 and 1988

Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

**DEMAND \$**

CHECK YES only if demanded in complaint:

**JURY DEMAND:** ☐ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

05/11/2016

SIGNATURE OF ATTORNEY OF RECORD

MAY 11 2016

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 54 East Collom Street, Philadelphia, PA 19144

Address of Defendant: City of Philadelphia Law Department, 1515 Arch Street, Philadelphia, PA 19103

Place of Accident, Incident or Transaction: Mascher Street and Godfrey Avenue, Philadelphia, PA 19136

(Use Reverse Side for Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐

No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐

No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_

Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐

No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐

No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐

No ☒

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes ☐

No ☒

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts

2. ☐ FELA

3. ☐ Jones Act-Personal Injury

4. ☐ Antitrust

5. ☐ Patent

6. ☐ Labor-Management Relations

7. ☒ Civil Rights

8. ☐ Habeas Corpus

9. ☐ Securities Act(s) Cases

10. ☐ Social Security Review Cases

11. ☐ All other Federal Question Cases  
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts

2. ☐ Airplane Personal Injury

3. ☐ Assault, Defamation

4. ☐ Marine Personal Injury

5. ☐ Motor Vehicle Personal Injury

6. ☐ Other Personal Injury (Please specify)

7. ☐ Products Liability

8. ☐ Products Liability — Asbestos

9. ☐ All other Diversity Cases

(Please specify)

### ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Paul J. Hetznecker, Esquire, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 5/11/16

Attorney-at-Law

49990

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 5/11/16

Attorney-at-Law

49990

Attorney I.D.#

CIV. 609 (6/08)

MAY 11 2016

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 2101 Collom Street, Philadelphia, PA 19144

Address of Defendant: Philadelphia Law Department, 1515 Arch Street, Philadelphia, PA 19103

Place of Accident, Incident or Transaction: Mascher Street and Godfrey Avenue, Philadelphia, PA 19136

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock? (Use Reverse Side for Additional Space)

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐

No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐

No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_

Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐

No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐

No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐

No ☒

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes ☐ No ☒

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts

2. ☐ FELA

3. ☐ Jones Act-Personal Injury

4. ☐ Antitrust

5. ☐ Patent

6. ☐ Labor-Management Relations

7. ☒ Civil Rights

8. ☐ Habeas Corpus

9. ☐ Securities Act(s) Cases

10. ☐ Social Security Review Cases

11. ☐ All other Federal Question Cases  
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts

2. ☐ Airplane Personal Injury

3. ☐ Assault, Defamation

4. ☐ Marine Personal Injury

5. ☐ Motor Vehicle Personal Injury

6. ☐ Other Personal Injury (Please specify)

7. ☐ Products Liability

8. ☐ Products Liability — Asbestos

9. ☐ All other Diversity Cases

(Please specify)

### ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Paul J. Hetznecker, Esquire

counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 5/11/16

Attorney-at-Law

49990

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 5/11/16

Attorney-at-Law

49990

Attorney I.D.#

CIV. 609 (6/08)

MAY 11 2016

**JD**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

**GREGORY PORTERFIELD**  
**54 East Collom Street**  
**Philadelphia, PA 19144**

**Plaintiff**

**vs.**

**POLICE OFFICER CYRUS MANN**  
**Badge Number 1781**  
**City of Philadelphia Law Department**  
**1515 Arch Street, 15<sup>th</sup> Floor**  
**Philadelphia, PA 19103**

**and**

**POLICE OFFICER JOSEPH REIBER**  
**Badge Number 2234**  
**City of Philadelphia Law Department**  
**1515 Arch Street, 15<sup>th</sup> Floor**  
**Philadelphia, PA 19103**

**and**

**CITY OF PHILADELPHIA**  
**Law Department**  
**1515 Arch Street, 15th Floor**  
**Philadelphia, PA 19103**

**Defendants**

**CIVIL ACTION    16    2295**

**NO:**

**JURY TRIAL DEMANDED**

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

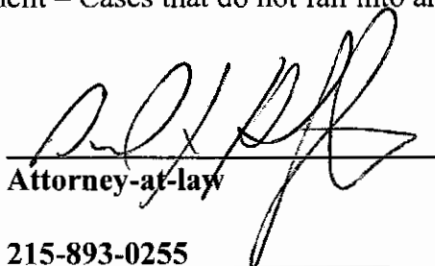
MAY 11 2016

16

2295

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ☐
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ☐
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ☐
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ☐
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ☐
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ☒

May 11, 2016**Date**  
**Attorney-at-law**Barry W. Hertznecker  
**Attorney for Plaintiff**215-893-9640**Telephone**215-893-0255**FAX Number**phetznecker@aol.com**E-Mail Address****(Civ. 660) 10/02**

MAY 11 2016